



# State of Connecticut

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Proposed S.B. 1058, An Act Concerning the Applicability of Probate Court Orders to State Agencies.  
Judiciary Committee  
Senator Kevin Kelly  
February 28, 2011

Good morning Chairmen Coleman and Fox, Ranking Members Kissel and Hetherington. Thank you for the opportunity to testify in support of *Proposed S.B. No. 1058, An Act Concerning the Applicability of Probate Court Orders to State Agencies*.

The authority to determine will or trust construction properly lies in the jurisdiction of our state probate courts. Sometimes the determination is made that a trust is construed to be a supplemental support trust in accordance with the Connecticut Trust Law—that is, the principal and income of the trust are considered to be not actually available to the beneficiary and that there is no expectation of a benefit.

However, state agencies often usurp the authority of our probate court system to interpret a will or trust during the process of determining eligibility for Title 19. Federal statute requires that the state Medicaid agency consider only those assets “actually available” to the applicant. Unfortunately, and despite the fact that the probate court has already determined the principal and/or income unavailable to the applicant/ beneficiary, the agency nonetheless disregards those orders and deems the assets available for Medicaid purposes. The result is increased litigation and cost to individuals who do not have the financial means of defense.

This bill would require the state agency to recognize and follow any valid probate court order within its jurisdiction, which would streamline administrative processes and save money. It also provides that a state agency retains the ability to appeal the probate court order to the Superior Court if dissatisfied with the result.

Again, thank you for the opportunity to testify before the committee. I urge your favorable consideration of this bill and I would be happy to answer any questions you may have.